

## BASIS OF CHARGE

### PRELIMINARY STATEMENT

1. The City of Clearwater, Florida (hereinafter "the City") violated § 447.501(1)(a) and (b), Florida Statutes (2005) and engaged in an unfair labor practice against Clearwater Fire Fighters Association, Inc., Local 1158, International Association of Fire Fighters (hereinafter "Local 1158") when it, through Fire Chief Jamie Geer, interfered with, restrained and coerced public employees in the exercise of the rights guaranteed under Chapter 447, Part II and Article I, § 6 of the Florida Constitution, including but not limited to rights under §§ 447.301 and 447.501 to engage in protected, concerted activities and free speech by denying the September 14, 2006 union leave time request (made after the parties settled PERC Case No. CA-2006-038 over the denial of union leave time requests) by Local 1158's A-Shift Vice-President and Executive Board Member John Klinefelter for arbitrary and discriminatory reasons.

### THE PARTIES

2. The City is a public employer and Local 1158 is an employee organization, within the meaning of § 447.203, Florida Statutes (2005).

3. Local 1158 represents a rank-and-file unit of City employees who are certified fire fighters.

4. There are around 176 bargaining unit employees and around 175 are dues paying members of Local 1158.

5. Local 1158's executive board includes the President, Executive Vice-President, and Secretary/Treasurer who are elected as representatives by the employees and serve on the Executive Board. The executive board also includes Clearwater shift vice-presidents, district vice-presidents, and board of trustee members.

6. John Lee was elected Local 1158 President in 1998 and re-elected in 2000, 2002 and 2004 unanimously or by an overwhelming majority. President Lee had been employed with the City's fire department since 1978. On or about August 25, 2006, President Lee retired as a driver-operator. During his nearly 30 years of employment with the City, President Lee maintained an excellent employment record and received no disciplinary action except for the counselings issued by Fire Chief Geer which were the subject of PERC Case No. CA-2006-038 (hereinafter referred to as "ULP Charge 4").

7. Vincent J. Carino was elected Local 1158 Executive Vice-President in 2003 and 2005 unanimously or by an overwhelming majority. Executive Vice-President Carino is a driver-operator employed with the fire department since 1977. During his nearly 30 years of employment with the City, Executive Vice-President Carino has maintained an excellent employment record and has received no disciplinary action.

8. David Hogan was appointed Local 1158 Secretary/Treasurer in 1998 and elected Local 1158 Secretary/Treasurer in 1999, 2001 and 2003 unanimously or by an overwhelming majority. Secretary/Treasurer Hogan is a fire-medical employed with the fire department since 1989. During his 16 years of employment with the City, Secretary/Treasurer Hogan has maintained an excellent employment record and has received no disciplinary action except for the counselings issued by Chief Geer which were the subject of ULP Charge 4.

9. John Klinefelter is Local 1158's A-Shift Representative and an Executive Board Member.

10. Fire Chief Jamie Geer was hired by City Manager William Horne in August or September 2004.

#### THE PARTIES' RELATIONSHIP

11. During his employment, Chief Geer has attempted to make and/or has made sweeping changes within the fire department including but not limited to eliminating the entire supervisory bargaining unit employee positions (district chiefs), rewriting the shift bid/assignment system to give management greater discretion, rewriting and reducing managerial and supervisory job qualifications, increasing the number of managerial/administrative employees, firing three African-American firefighters, banning all female firefighters from entering burning buildings and denying the

highest ranking female firefighter the same promotional opportunities offered to males.

12. Local 1158 - through its executive board, including Lee, Carino, Hogan - has grieved, scheduled pending arbitrations, requested to bargain, investigated, and/or opposed many of Chief Geer's decisions and proposed changes and has investigated and objected to the lack of qualifications, lack of firefighting combat and command experience, and/or lack of State of Florida certification by members of Chief Geer's fire administration (which includes but is not limited to Chief Geer's own failure to obtain State of Florida certification within a year of his hiring).

13. At Local 1158's union meeting in July 2005, a motion passed unanimously to hold a vote of no confidence in Chief Geer. The vote of no-confidence was eventually held, and, on September 20, 2005, the vote was tallied and announced. Of the 121 voting members/employees, 87 (or approximately 72%) voted no confidence in Chief Geer.

14. On September 1, 2005, in response to the impending vote of no-confidence scheduled by Local 1158, Chief Geer sent out a mass email to "all fire department employees" and copied City Manager Horne among other managers. Chief Geer's email targeted Lee, Carino and Hogan by name and stated:

It has come to my attention that the e-board of Local 1158 is conducting a vote of no confidence in the Fire Chief. I have believed all along that Lee, Carino, and Hogan would commit one last desperate act. I am through

playing around and it is time for this to change. Three years of disgraceful behavior and irresponsibility rests with their leadership. Lee, Carino, and Hogan have disgraced our honorable profession and most importantly have disgraced our honorable brotherhood of the IAFF. This assault on the office of the Fire Chief is an assault on the entire management team, an amazingly talented and experienced team. I will not stand by and allow my office and my team to be insulted. I will use every means at my disposal to finally hold these firefighters accountable. We cannot advance to the next level until we cleanse our organization of the disgraceful and incompetent behavior of these representatives. Their credibility has declined to nothing.

It is decision time. Every member of this department must make a decision, to support and become a partnership of labor and management, or to support the present representatives of this local. I cannot express to you the importance of this decision in the minds of our entire community. We have struggled to gain approval for resources because of the recognition of irresponsible behavior. Each and every time your representatives have demonstrated unprofessional and irresponsible behavior, we have moved another step toward alternatives to providing fire protection and EMS services.

The world recognizes what my administration has brought to this department and that is accountability. No one in this past years [sic] events has been wrongly accused, all were held accountable and rightfully so. Time and time again, though their words supported accountability, their actions do not. I have watched the tremendous struggle this caused Lee and company. Our moral, ethical, and professional standards were never compatible and never will be. That is why our collaborative partnership was doomed from the start and always will be. It is time to move on and move ahead. The actions I have taken this year have provided the community, the media, elected officials, and city management hope that our much needed cleansing was taking place, long overdue, and leading to our success. If we choose a different course, we will fail. I challenge you all to take control and decide your future. It is time for the silent majority to be heard and replace these representatives. I have people every day ask me what would it take to get the silent majority to act and address this issue. I believe

that this is our defining moment. Our future is a [sic] stake. I challenge you all to do the right thing and do it openly. The deadline is September 20<sup>th</sup>.

(Appended hereto as Exhibit 1 is a true and accurate copy of Chief Geer's September 1, 2005 email.) (emphasis supplied)

15. Also on September 1, 2005, City Manager Horne sent an email to Lee and copied Carino, Hogan, and Chief Geer which stated:

John, The scheduled vote of no confidence on Chief Geer, regardless of the outcome, will generate unintended consequences for your IAFF Local 1158 members. Given the level of media exposure CFR [Clearwater Fire-Rescue] has had over the past 3 years, this most recent development answers the question the council has asked about the relationship between the fire administration and IAFF Local 1158. I hope that you and your board are prepared to accept the internal and public unintended consequences that are sure to come during and after the vote. I am extremely disappointed in you and your board. However, life goes on and I am fully prepared to embrace the uncertain future in our relationship.

(Appended hereto as Exhibit 2 is a true and accurate copy of City Manager Horne's email of September 1, 2005.) (emphasis supplied)

16. On September 6, 2005, Chief Geer sent an email to all fire department employees banning union activities including "solicitations" on duty and on city property unless approved by the Fire Chief. (Appended hereto as Exhibit 3 is a copy of Chief Geer's September 6, 2005 email.)

17. On October 12, 2005, Chief Geer responded to a question raised in an earlier email by District Chief Robert S. Tellone to Operations Chief Randall A. Bacher. Tellone had asked:

Chief, I was hoping to give DO [driver/operator] Lee clarification on union business. There was a directive

by the Fire Chief regarding no union business on duty. DO Lee has received several emails regarding union business [from City management]. May he respond to these e-mails on duty? I would like to give him a response in writing (e-mail). Thanks. Shawn

Operations Chief Bacher did not know and forwarded the email to Deputy Chief Robert Dube stating:

Dear Chief - I know I sent John the Kelly Day items on the City e-mail. What is your interpretation on his ability to respond to these types of email from administration and/or the City?

Deputy Chief Dube forwarded both emails to Fire Chief Geer who responded:

My directive means there is to be no union activity unless approved by Chief Dube or myself, unless specifically permitted in the contract. Any communication with firefighter Lee or others representatives [sic] shall be in writing without using the email system. FF Lee may not respond to union business emails, on duty or off, effective since my last order.

Section 3A of the current contract states that employees, stewards, and other union officer [sic] may not leave their assigned fire station or work area without prior permission of the Fire Chief, related to any grievance. Furthermore, the employee and union official shall not interfere with the normal operations of the department. Therefore, effective immediately, no on duty personnel will participate in any grievance procedure or hearing without permission of the Fire Chief.

Chief Dube, please draft a letter to FF Lee detailing this order.

Chief Geer then sent a second response and stated:

I have issued a directive addressing this union business. Both IAFF and CWA will be notified in writing and by email. I have made one adjustment to the previous email. Mr. Lee has approval to respond to union business emails only if they are addressed to me directly. I will

forward his responses as needed. Please respond to all personnel concerned.

(Appended hereto as Exhibit 4 is a copy of the emails received and sent by Chief Geer on October 12, 2005.) (emphasis supplied)

18. On October 12, 2005, Chief Geer sent out the following directive to all fire department personnel, Local 1158 President Lee, and the President of Communications Workers of America, Local 3179 which represents non-certified employees in the fire department and other City departments. The email stated:

Effective immediately, there is to be no union business conducted on-duty unless specifically approved by the Fire Chief. The only exceptions to this directive are the contracted stipulations that are outlined in the current bargaining agreements in:

Article 3 Rights of Parties  
IAFF under Section 3. Union Rights  
CWA under Section 5. Union Rights

As stated in the agreements, approved activities "shall not interfere with the normal operations of the Department."

There will be no more occurrences of placing units out of service for any union business unless approved by the Fire Chief.

(Appended hereto as Exhibit 5 is a copy of Fire Chief Geer's October 12, 2005 directive.)

19. On October 14, 2005, Operations Chief Bacher sent an email to Tellone and all district chiefs and acting district chiefs, clarifying Chief Geer's direction as follows:

Any need for Union time, which will include grievance hearings, negotiations, etc., must be requested in accordance with the Union contract. At no time will a

unit be placed out of service (or delayed) to facilitate a Union activity. I would suggest that any activity that even remotely appears to have a Union connection should be approved.

Stay safe.

(Appended hereto as Exhibit 6 is a copy of Bacher's October 14, 2005 email.)

#### LOCAL 1158'S FIRST THREE ULP CHARGES AGAINST THE CITY

20. From October through December 2005, Local 1158 filed three unfair labor practice charges against the City which name and charge City Manager Horne and Chief Geer with unlawful acts under Chapter 447, Part II, Florida Statutes.

21. The first two charges, CA-2005-065 & CA-2005-071 (hereinafter referred to as "ULPs 1 & 2"), which were found sufficient, were consolidated, and a hearing was scheduled for January 25 and 26, 2006. The hearing was continued and held on April 25 and 26, 2006.

22. The third charge, CA-2005-086 (hereinafter referred to as "ULP 3"), was found sufficient, and a hearing was scheduled for May 3, 2006. The hearing was continued and held May 19, 2006.

#### CONTRACT PROVISION ON UNION LEAVE TIME

23. The parties have a collective bargaining agreement in effect from October 1, 2004 through September 30, 2007. (Appended

hereto as Exhibit 7 is a true and correct copy of the Agreement.)

24. Article 8, Section of the Agreement states:

The Union may, upon request, be allowed up to 400 duty hours per fiscal year to be excused for Union business, conferences, training, and Executive Board meetings pertaining to the City of Clearwater. Any such request must be initiated in writing through the chain of command, via the District Chief, and will give the name of the person wanting off, date the person is to be off, and the number of hours the person will be off. Time off from duty under this provision must be approved by the Fire Chief or his/her designee and must be taken in not less than four-hour increments. Absences for Union time excluding the Union president/designee shall count toward the total number of seven employees permitted to be absent for personal leave on any given shift. Any unused portion of the balance is to be carried over into the next contract year.

Any use of City facilities for Union-related business shall require written request at least 48 hours in advance to the Fire Chief, which may be granted or denied at his/her sole discretion. Executive Board members only shall be permitted to conduct/attend Executive Board meetings while on duty with no charge to the aforementioned Union time, with the prior approval of the Fire Chief or his/her designee, provided 48 hours notice is given, and further provided that such meetings will cause no adverse impact to Department operations. Off-Duty Executive Board members shall not be eligible to receive any compensation for time spent attending such meetings.

Union officials utilizing union time shall not be eligible during the time of utilization for Worker's Compensation benefits in case of injury. In any event, absence from duty for union business shall not be approved which requires a union official to be off duty for periods in excess of three consecutive scheduled work shifts. Extension of any consecutive time off for union officials, over and above the three consecutive shifts, may be granted solely at the discretion of the Fire Chief. Requests for union time off must be made on the designated form.

Jointly related business between the City and the Union shall not be subject to deduction from the bank, however, the Union acknowledges that such time needed for arbitration hearings will be chargeable to the account. In any event, the Fire Chief or his/her designee, may at his/her discretion, deny any request not made at least 72 hours in advance and submitted by a Union Officer, or which renders the Department staffed below that level which the Chief determines to be necessary.

(emphasis supplied)

LOCAL 1158'S FOURTH ULP CHARGE AGAINST THE CITY  
FOR INTERFERENCE & DISCRIMINATION AGAINST UNION LEAVE TIME

25. On November 4, 2005, City bargaining team member and Human Resources Manager Allen Del Prete sent an email to John Lee as follows:

Mr. Lee - the City is available on the following dates and times to continue negotiations with IAFF Local 1158:

Thursday, November 10th in the p.m.  
Monday, November 28<sup>th</sup> in the a.m.  
Monday, December 5<sup>th</sup> at anytime  
Wednesday, December 7<sup>th</sup> at anytime

Please contact me directly to advise which dates and times will be convenient for the Union. Thank you.

(Appended hereto as Exhibit 8 is true and correct copy of Del Prete's November 4, 2005 email.)

26. All of the days suggested in Del Prete's November 4, 2005 email were A-Shift days on which Lee was scheduled to work.

27. On November 23, 2005, Del Prete sent Lee the following email:

Mr. Lee - I have confirmed reservation of Multi-purpose room A at the North Greenwood Recreation Center beginning

at 9:00 a.m. on Monday, November 28<sup>th</sup> for our next negotiating session. Please remember to forward a request to chief Geer to obtain approval to be released and provide the department with an opportunity to plan around your absence. You may contact me directly if you have any questions or concerns.

(Appended hereto as Exhibit 9 is a true and correct copy of Del Prete's email of November 28, 2005.)

28. Through the chain of command, Lee requested union leave time from District Chief Tellone. Tellone was then Local 1158's District Chief Vice-President Representative and an Executive Board Member.

29. On November 26, 2005, Tellone sent the following email to Chief Geer:

Chief, I am seeking your approval for DO Lee and myself to attend D/C negotiations scheduled for 11/28/05 at 9:00 a.m. I realize this does not meet the required time for approval however, I have been on vacation and today was my first day back on duty. This will require OT for coverage. I have a copy of an e-mail from Mr. Del Prete to DO Lee dated 11/23/05 at 1626 confirming the date and time of this negotiation session. Thank you for your consideration. Shawn.

The same day, Chief Geer responded by email:

My direction to FF Lee was very clear, he must submit a written request to me directly, you may not submit in his behalf. Requests must be on time. Both are denied.

(Appended hereto as Exhibit 10 is a true and correct copy of the November 26, 2005 emails between Tellone and Geer.)

30. Two days later, on November 28, 2005, Chief Geer sent a second email response to Tellone's request for union leave time and

copied Lee, Deputy Chief Dube, and Operations Chief Richard Riley stating:

Since I responded to this email by Balackberry [sic] Saturday, I wanted to update all concerned. My direction to Mr. Lee was very clear. All requests are to be written and submitted to me directly and on time. Mr. Lee and Chief Tellone, you may consider that direction a direct order. Non compliance with that direction has now resulted in two counseling incidents, the next will require an action plan.

(Appended hereto as Exhibit 11 is a true and correct copy of Geer's November 28, 2005 email.)

31. A "counseling" and an "action plan" are initial steps of the City's Performance & Behavior Management Program which identifies employee performance and behavior standards and the City's response to the failure to meet such standards including but not limited to discipline and termination.

32. On January 8, 2006 at 11:51 a.m., B-Shift Vice-President and Executive Board Member Gerard DeVivo requested union leave time for an Executive Board Meeting on January 11, 2006 from 6:30 to 10:30 p.m. Chief Geer denied the request. Denise Blalog, Chief Geer's assistant, forwarded Chief's Geer's denial via email to DeVivo stating: "Please respond to Chief Geer directly if you have any questions."

DeVivo sent an email to Chief Geer as follows:

I am following the direction given to me in the below email to contact you directly. I was curious as to why the time was not approved. If there is anything we can do to streamline the process, please let me know.

Chief Geer responded to DeVivo by email, copying Lee, Carino, and Hogan, Dube and Riley and stated:

Again, follow the direction I gave to Mr. Lee, Carino, and Hogan. If you will refer to the contract, Article 19 Personnel Practices, Section 9, paragraph B details the process as a written request through the chain of Command and must be approved by the Fire Chief. Additionally, "In any event the Fire Chief or his/her designee may at his/her discretion deny any request not made at least 72 hours in advance and submitted by a Union Officer or which renders the Department staffed below that level which the Chief determines to be necessary." My direction again is to comply with the contract.

(Appended hereto as Exhibit 12 is a true and correct copy of the exchange of emails related to the January 8, 2006 request for union leave time.)

33. On January 11, 2006, Blalog sent an email regarding "Union Time Off Requests" to Hogan and copied Geer stating:

Please send them via email address

TO: Jamie Geer  
CC: Denise Blalog

The Fire Chief needs to receive them directly, but carbon copy them to me so that I can assist Chief Geer with the approval/denial process.

Thanks,  
Denise

(Appended hereto as Exhibit 13 is a true and correct copy of Blalog's email of January 11, 2006.)

34. On January 13, 2006, Local 1158 Secretary/Treasurer Hogan requested union leave from his January 24 shift from 3:00 p.m. to 8:00 a.m. for a meeting in preparation for the upcoming unfair

labor practice hearing against the City in ULPs 1 & 2 for January 25 and 26. The same day Chief Geer denied the request without explanation. By email, Hogan asked why Chief Geer had denied the request for union leave time. Hogan said:

Ok. I give. What exactly is it that you want me to do? More than 72 hours - absolutely. Pertinent, I believe so. If there is something else that you want me to do just let me know if you please.

Chief Greer replied:

David, your insubordination in this email calls for additional counseling. I warned you about this after your email to Chief Bacher. As to this request, you want to take the previous workday off from 3:00pm until 8:00am the following morning to prepare for a hearing, there is absolutely no possible way I can justify it. Denied.

(Appended hereto as Exhibit 14 is a copy of email correspondence between Hogan and Geer.) (emphasis supplied)

35. On January 15, 2006, Hogan sent an amended request for union leave time on January 24 to attend a meeting with Local 1158's attorneys to prepare for the upcoming unfair labor practice hearing. This time, Hogan reduced the requested time off to 3:00 p.m. to 9:00 p.m. Chief Geer denied this request without explanation. (Appended hereto as Exhibit 15 is a true and correct copy of the January 15, 2006.)

36. On February 25, 2005, DeVivo requested union leave time for March 2, 2006 from 6:30 p.m. to 10:30 p.m. to attend an Executive Board meeting. As directed by Chief Geer in response to DeVivo's January 8 request, DeVivo submitted this request through

the chain of command to Lieutenant Glenn Witko and Assistant Chief - Suppression Marvin Pettingill and copied Blalog. Blalog responded to DeVivo, "Please submit directly to the Fire Chief and CC: me. Thanks." DeVivo responded to Blalog:

I submitted my request according to the union contract. Last time [on January 8 for DeVivo] we sent the request directly to the chief, it was denied. Could you please clarify the process? Thank you for your time.

Blalog forwarded DeVivo's response to Geer who replied:

Denise does not clarify the process per my direction. Your request is denied.

(Appended hereto as Exhibit 16 is a true and correct copy of the emails related to DeVivo's January 25, 2006 request for union leave time.)

37. On May 11, 2006, DeVivo requested to take union leave time from 6:30 p.m. to 10:30 p.m. on May 15, 2006 for an Executive Board Meeting. Chief Geer denied the request without explanation. The daily rosters show that no one was on vacation and staffing was not an issue. (Appended hereto as Composite Exhibit 17 is a true and correct copy of DeVivo's May 11, 2006 request and the staffing rosters for May 15, 2006.)

38. On May 18, 2006, Local 1158 filed ULP Charge 4 against the City based on Geer's (1) denial of union leave time requests for arbitrary and discriminatory reasons and (2) issuing union representatives counselings and threatening an "action plan" in response to their request for union leave time and the reason for

denial of union leave time. The charge was found sufficient on May 25, 2006, and a hearing was scheduled for July 27, 2006.

#### LOCAL 1158'S FIFTH ULP CHARGE AGAINST THE CITY

39. On June 27, 2006, the hearing officer found the City guilty of unfair labor practices and recommended Local 1158 be awarded its reasonable attorney's fees and costs in ULPs 1 & 2. On August 30, 2006, the Commission issued a final order rejecting the City's exceptions regarding attorney's fees and costs and adopting the hearing officer's finding of unfair labor practices by the City.

40. On July 26, 2006, the hearing officer found the City guilty of unfair labor practice and recommended Local 1158 be awarded its reasonable attorney's fees and costs in ULP 3. The City's exceptions to the hearing officer's recommended order are pending before the Commission.

41. On July 27, 2006, at the hearing on ULP Charge 4, the parties entered into a settlement agreement of that charge. In the settlement agreement, the City, among other things, agreed not to deny requests for union leave time for arbitrary and capricious reasons, and agreed that it would provide a legitimate reason for any denial and pay \$7230.00 for Local 1158's attorney's fees and costs. On August 15, 2006, the Commission issued its final order accepting the Settlement Agreement and closing the case. (Appended

hereto as Exhibit 18 is a true and correct copy of the Settlement Agreement reached by the parties on July 27, 2006)

42. On July 28, 2006 at 1:53 p.m., DeVivo requested union leave time for an Executive Board Meeting on August 2, 2006 from 6:30 p.m. to 10:30 p.m. Chief Geer denied the request. Geer's sole reason for the denial was: "Per Article 8, Section 6.B pg. 36 - '.... or which renders the Department staffed below that level which the Chief determines to be necessary.'" DeVivo was given notice of Chief Geer's denial just hours before the Executive Board Meeting on August 2. The fire department daily rosters show that staffing was not an issue and extra staff was on duty. (Appended hereto as Composite Exhibit 19 is a true and correct copy of DeVivo's July 28, 2006 request and the fire department staffing rosters for August 2, 2006)

#### LOCAL 1158'S SIXTH (INSTANT) ULP CHARGE AGAINST THE CITY

43. On September 12, 2006, A-Shift Vice-President and Executive Board Member John Klinefelter sent an email to Assistant Chief Jerry Howell requesting union leave time for a Union Meeting on September 19, 2006 from 6:00 p.m. to 10:00 p.m. (Appended hereto as Exhibit 20 is a true and correct copy of Klinefelter's September 12, 2006 request).

44. On September 14, 2006, Klinefelter also hand-delivered a leave form requesting union leave time for the September 19, 2006, meeting to Operations Chief Richard Riley.

45. On Friday, September 15, 2006, an arbitrator issued an Opinion and Award in favor of Local 1158 reinstating Trevor Murray (one of the three aforementioned African-American firefighters fired at Geer's request) with all back pay and benefits.

46. On Monday, September 18, 2006, Local 1158 served its Attorney Fees and Costs Proposal requesting the City pay \$46,432.50 in attorney fees and \$2,880.64 in costs in ULPs 1 & 2.

47. On Tuesday, September 19, 2006, Local 1158 served its fifth unfair labor practice charge, CA-2006-055 (hereinafter referred to as "ULP Charge 5") against the City based on Geer's denial of DeVivo's July 28 union leave time request for arbitrary and discriminatory reasons. The charge was found sufficient on September 26, 2006.

48. On September 19, 2006, Chief Riley told Klinefelter to submit the request for union leave time on a new form because the prior form did not contain spaces for the fire chief or designee to write reasons for denial. The City discarded the September 14, 2006, leave form. Klinefelter immediately resubmitted the request for union leave time using a new form. (Appended hereto as Exhibit 21 is a true and correct copy of Klinefelter's September 19, 2006, request replacing his September 14, 2006, request)

49. On September 20, 2006, just hours before Local 1158's General Meeting, Chief Geer denied the request stating "It would be unfair to allow one and not everyone on duty to attend regular meeting." Geer also wrote "And not for union bank charges as well." (See Exhibit 21)

50. No other employee who was on duty on September 19, 2006 from 6:00 p.m. to 10:00 p.m. had requested union leave time.

51. The requests for union leave time made by DeVivo on July 28 and Klinefelter on September 14, are the only requests for union leave time made since July 27, 2006.

52. Chief Geer's arbitrary and discriminatory denial of union leave time has interfered with, restrained and coerced employees in the exercise of rights under Chapter 447, Part II and Article I, § 6 of the Florida Constitution, including but not limited to rights under §§ 447.301 and 447.501 to engage in protected, concerted activities and free speech.

#### REMEDY

WHEREFORE, Local 1158 respectfully requests the Public Employees Relations Commission to order the City of Clearwater to:

1. Cease and desist from:
  - (a) denying employees' requests for union leave time for arbitrary and discriminatory reasons;

(b) in any like and related manner interfering with, restraining or coercing public employees in the exercise of any rights guaranteed to them by Chapter 447, Part II, Florida Statutes and Article 1, § 6 of the Florida Constitution.

2. Take the following affirmative action:

(a) Post immediately in conspicuous locations where notices to employees are customarily posted, copies of the attached notice to employees which states that the City of Clearwater will cease the conduct set-forth in paragraph 1 above and will take the affirmative action set forth in paragraph 2. The City of Clearwater shall ensure that these notices remain posted for 60 consecutive days and that the notices are not defaced or altered and are not covered by other material. Copies of the notice shall be signed by the City of Clearwater's authorized representative prior to the posting.

(b) Pay Local 1158 its reasonable attorneys fees and costs for prosecuting this charge.

(c) Notify the Commission by written affidavit of the date of posting and the City's final compliance with all the remedies ordered.